

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM J. CUNDITT,

Petitioner,

vs.

HIGH DESERT STATE PRISON, *et al.*,

Respondents.

3:11-cv-00785-ECR-WGC

ORDER

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding *pro se*.¹ On December 14, 2011, the court issued an order denying petitioner's motions to proceed *in forma pauperis* because petitioner failed to use the approved form and the motions were incomplete. (ECF No. 12.)

On January 3, 2012, petitioner filed a new motion to proceed *in forma pauperis*. (ECF No. 13.) This motion is also incomplete. Petitioner failed to provide a financial certificate signed by an authorized prison officer and failed to provide a statement of his inmate trust fund account for the six

¹ As the court noted in case 3:11-cv-00397-ECR-RAM, it appears that petitioner's last name is "Cundiff" rather than "Cunditt," but that petitioner's lower case "f" looks similar to a lower case "t" in petitioner's hand-written documents.

1 months prior to the filing of his application. The court expressly cautioned petitioner in its December
2 14, 2011 order that his failure to either pay the filing fee of \$5.00 or file a fully completed application
3 to proceed *in forma pauperis* could result in dismissal of this action.²

4 Additionally, petitioner has submitted a voluminous number of documents to the court that are
5 nonsensical and not responsive to the court's December 14, 2011 order. Because petitioner has failed
6 to properly initiate this action, the court directs the clerk to return these documents to petitioner without
7 placing them on the docket.

8 **IT IS THEREFORE ORDERED** that the clerk shall **FILE** and docket the petition (ECF No.
9 1-1).

10 **IT IS FURTHER ORDERED** that petitioner's motion to proceed in forma pauperis (ECF No.
11 13) is **DENIED**.

12 **IT IS FURTHER ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE** for
13 petitioner's failure to obey this court's order of December 14, 2011. The clerk shall **ENTER**
14 **JUDGMENT** accordingly.

15 **IT IS FURTHER ORDERED** that all pending motions are **DENIED as moot**.

16 **IT IS FURTHER ORDERED** that the clerk **SHALL** return the miscellaneous documents
17 submitted by petitioner without placing them on the docket.

18
19 Dated this 31st day of January, 2012.

20 
21 UNITED STATES DISTRICT JUDGE
22
23

24 ² In his petition, petitioner appears to be challenging his state criminal conviction in the case
25 *State v. Cundiff*, 08C242790, in the Eighth Judicial District Court for the District of Nevada. This
26 court's review of the docket in that case indicates that post-conviction proceedings remain ongoing. See
<https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=7553942>. Thus, it does not
appear that petitioner will be prejudiced by the court's dismissal of this action without prejudice to a
properly-commenced habeas corpus action.